

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, JANUARY 11, 1996

Chairman Tull called the meeting to order at 1:30 p.m. at the Silverdale on the Bay/West Coast Hotel in Silverdale, Washington.

MEMBERS PRESENT: **ROBERT M. TULL, Chairman; EDWARD HEAVEY; and S. DON PHELPS.**

OTHERS PRESENT: **FRANK MILLER, Director;
BEN BISHOP, Deputy Director;
SHARON TOLTON, Assistant Director, Special Operations Division;
CALLY CASS-HEALY, Assistant Director, Licensing Division;
SHERRI WINSLOW, Assistant Director, Field Operations Division;
CARRIE TELLEFSON; Special Assistant to the Director for Public Affairs;
MICHAEL AOKI-KRAMER, Rules and Policy Coordinator;
JONATHAN McCOY, Assistant Attorney General;
ROSELYN MARCUS, Assistant Attorney General;
JACKI FISCHER, Financial Investigations Unit; and
SUSAN GREEN, Executive Assistant.**

Chairman Tull noted that Commissioner Phelps has not arrived yet due to an obligation related to his law practice, so certain agenda items will be moved to give him time to arrive before voting.

REVIEW OF FRIDAY'S AGENDA

Carrie Tellefson said the appeal of Tab King Distributing, which was going to be heard today, will be held over until the February Commission meeting in Olympia. She said rules on Friday's agenda up for final action include four housekeeping rules and one rule regarding the moratorium on issuing mandatory downgrades for failing to meet net income requirements. She said there are five rules up for discussion and a number of rules up for discussion and possible filing. Rules up for discussion include a rule package that would streamline the qualification review process, a package regarding gift certificates and transportation to bingo games, a rule involving final orders, and a rule involving the number of card players allowed at a table.

PETITIONS FOR REVIEW

RENEE SIMPSON, Case Number 94-0954
Licensee Petition to Review Administrative Law Judge's Initial Order

Chairman Tull recalled that Ms. Simpson left during the last Commission meeting before her petition was called for review, possibly due to the heat of the moment or the pressure of the situation.

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Commission staff contacted her to let her know she would have a chance to be heard at the January meeting. **Roselyn Marcus**, Assistant Attorney General, said she would like to submit for the record a signed affidavit stating that Special Agent Bill Kesel personally served Ms. Simpson with a revised notice of Commission's hearing regarding her petition for review, which stated that her case would be heard at today's meeting. This affidavit states that when she was served, Ms. Simpson stated that she did not wish to pursue her appeal. **Chairman Tull** said that the Commission would take the absolute failure on two separate occasions to appear by Ms. Simpson to be very direct evidence of consent to abandon an appeal.

JRROMANO ENTERPRISES, INC., d/b/a YARDARM PUB, Case Number 95-0233
State and Licensee Petitions to Review Administrative Law Judge's Initial Order

Chairman Tull offered to postpone this appeal until later in the afternoon when Commissioner Phelps would be present, or they could proceed and the audio tapes of the Commission meeting would be provided to Commissioner Phelps to review. **Mr. Singer** declined Chairman Tull's offer to postpone the hearing and agreed to proceed with this matter.

Ms. Marcus said she is the Assistant Attorney General for the Gambling Commission in this case and summed up the case as follows: Commission staff requested appeal on the penalty for this licensee. The ALJ recommended a two-year revocation and Commission staff recommended a five year revocation. She noted the pull tab industry is based on the need for the people of this state to trust its equity and fairness. There needs to be trust in the pull tab industry or the industry cannot and will not survive. She said the Commission's rules are designed to ensure that the industry is run in an equitable and fair way so that every person who plays a pull tab game has a fair opportunity to win. When the Commission finds that those rules which ensure the equity and fairness of this system are breached, then Commission staff recommends that the Commission take swift action to ensure that the offending licensee, who has destroyed the trust of an industry, gets their license revoked for a substantial period of time.

Ms. Marcus then reviewed the facts of this case as follows: The pull tab games in this case were manufactured by a Canadian company. The pull tabs were not mixed, but were packaged in a way so that the winners could be found. They were sold to the distributor, who sold them to certain licensees/operators, and the operators put them into play. The operators knew that the boxes were stacked and they used that information to load these pull tab games into the fish bowls so that all of the winning tabs would be found at the top of the fish bowl. When customers played these games and pulled tabs from the bottom, which is a common practice as found in this case, they would not have a chance to win. The evidence in this case was clear, and the administrative law judge (ALJ) so found.

Ms. Marcus said the ALJ ordered a two-year revocation. Commission staff believe that a five-year revocation is more appropriate given the evidence. In this case, the licensee was running two establishments, not one. A fraud was being perpetrated in two separate locations. She said the ALJ handed down five-year revocations in two other companion cases to this one. In making a finding of only two years in this case, the ALJ said the fact that the licensee did not conspire with his employees to defraud the public mitigated against a stiffer penalty. When Mr. Lorge put the games into play, he used the information about the placement of the winning tabs to prevent customers from winning, but he didn't tell his employees how to load the fish bowls. The other licensees that received the five year revocation the Commission requested did talk to their employees and did have their employees load the games in the same way to defraud the public.

Ms. Marcus paraphrased the ALJ's opinion as stating that because this licensee loaded the tabs illegally himself and didn't conspire with other employees, he should only receive a two year revocation instead of five years. She said Commission staff does not believe that whether this licensee conspired with his employees is an appropriate area for mitigation. The fact that the licensee did not commit an additional violation of conspiracy should not lessen the recommended penalty, but only goes towards not making the recommended penalty higher.

Ms. Marcus then emphasized that in comparing this case with the other two companion cases that received the five-year revocations, in each of the other cases the licensees were only running one establishment. In this case, the licensee was running two establishments: Bud's Tavern and the Runway Tavern. That this case involved fraud in two establishments in itself makes this case substantially different from the other two cases and warrants a five-year revocation.

Ms. Marcus also said that the amount of money customers won versus what they paid provides additional support for a five-year revocation. In Bud's Tavern, customers purchased over \$7,000 worth of pull tabs. In the Runway Tavern, customers purchased over \$8,000 worth of pull tabs. Fifteen thousand dollars worth of pull tabs were purchased and defrauded the public. Given the findings of fact that the ALJ made in this case; given the importance of the people being able to trust that the pull tabs are being played fairly and equitably; given the fact that the licensee destroyed that trust through defrauding the public and earned profits through that fraud, Commission staff believes that the five-year revocation requested should have been recommended by the ALJ and she asked that the Commission invoke a five-year revocation.

Alan Singer, counsel for Jrromano Enterprises, Inc., remarked he doesn't know who came up with the ten-minute limit and he doesn't know how to present all the information he has in just ten minutes. He said he understands the Commission has a transcript of the proceedings and all of the evidence. He noted he has not seen the transcript.

Mr. Singer commented that Ms. Marcus made some statements about his client, Mr. Lorge, being unfair and defrauding the public. He said he submitted evidence to the ALJ indicating that the payout of the APT games, which were the suspect games, played in Bud's Tavern during the period in question was 66.2 percent. Of those same kind of games that were used at the Runway, the payout was over 56 percent, which he asserted is exactly what all other games pay as a matter of statistics. He said that the investigators took a handful of games, found what they wanted, and then said this man's dirty because those games were in his possession. He said what Ms. Marcus didn't tell the ALJ and what he had to tell the ALJ was the statistics say that this man, who by the way generated all the numbers the opponents used, didn't enjoy profits in excess of that which any other tavern in the town enjoyed. With regard to the APT games, which are the Canadian games in question, he lost money on most of them and there was a 56 percent and 66 percent payout, which is also consistent with a fair game.

Mr. Singer said the commissioners should remember an establishment known as "Vito's." He said the commissioners may also be aware that "Vito's" is out of business. It went out of business because this great, wonderful, and astute businessman, who is supposed to be looking at all the records at Bud's Tavern and The Runway Tavern, ran "Vito's" into the ground in a period of two months after it was a going concern for 30 or 40 years. The evidence shows Mr. Lorge wasn't even at the establishments when the fraud was discovered. He wasn't loading the bowls and he wasn't running the taverns. **Mr. Singer** noted the ALJ did a very kind thing in this order when he indicated in mitigation that while Mr. Lorge did not recruit others to participate, he let the violations occur when he knew or should have known that unmixed games were regularly placed out for play.

Mr. Singer asked why Mr. Lorge was being singled out. He said there were two other owners of both taverns in question. He wondered what happened to the "should have known" aspect of the ALJ's order that Mr. Lorge has to take the punishment and nobody else does.

Mr. Singer next complained that the police got an anonymous phone call, various things were said, and Mr. Lorge wasn't given the opportunity to know who made the call. He said the Commission's investigative process isn't like a standard criminal law process where certain standards are set up to accept "anonymous" phone calls. He offered that Mr. Lorge wasn't getting along with one of his business partners. He said that he does not know who made the phone call, but further, the ALJ said that Mr. Lorge didn't recruit others to participate, which is interesting because earlier in the ALJ's order, the ALJ says Mr. Lorge only put out 10-15 percent of the fish bowls, which were Mr. Lorge's estimated figures.

Mr. Singer reiterated that if Mr. Lorge didn't encourage others to participate, that he only put out a fraction of the fish bowls, and the opposing side accepts these facts as uncontroverted evidence, which is in the ALJ's order through the testimony of Jennifer Skipworth and Dee Dee Barnes that what they said about taking the tickets out of the boxes and putting them in fish bowls is credible, then who mixed or didn't mix the tabs in question? He asked who rigged these fish bowls.

Mr. Singer then stated his belief the ALJ's order is internally inconsistent. He said that this case hinges on a little bit of evidence, which turned into huge illogical leaps that his client must have known that the games in question were rigged. He said there was no testimony that Mr. Panagiotu, who sold Mr. Lorge the games, told Mr. Lorge that the games were rigged. He said there was no testimony that Mr. Lorge even told anybody that he knew the games were rigged. He said there was no evidence that Mr. Lorge was in any way doing anything consistent with the proposition that he knew the games were going to make him money.

Mr. Singer stated his theme for this case is that it does not make any common sense and he is sure the Commission is still operating on the concept of common sense. He paraphrased the Commission staff's argument as saying Mr. Lorge bought a lot of the rigged games and, therefore, he must have known those games were going to make money. **Mr. Singer** argued that if Mr. Lorge knew those games were going to make money, then why did he only put 10-15 percent of those games into play? Why weren't the games making money? He asked why wasn't he asking other people to put the rigged games into play so he could make more money? The fact that Mr. Lorge bought a lot of the rigged games because someone told him they were good games is not solid evidence. The logic of the Commission's position regarding the evidence is that he bought the games; therefore, he must be guilty. Statistically, Commission staff is saying they found four or five games that paid off low; therefore, they all paid off low. He said if that's the Commission's case, why didn't Mr. Lorge make money? In looking at the record, there is nothing in the record that supports the proposition that Mr. Lorge gained anything or did anything to gain anything illegally.

Mr. Singer added that Bud's and Runway Tavern are still operating. Mr. Lorge is now running a tavern called the Yard Arm Tavern. Within the context of the Yard Arm Tavern, he has done nothing wrong. Within the context of the Yard Arm operation, after 73 days of this investigation, Mr. Lorge was given a gambling license, later to be revoked after the 133rd day of the Gambling Commission's investigation.

Mr. Singer respectfully suggested that the only way to ensure there is quality investigations by law enforcement officers is that they have to withstand some kind of scrutiny and test. He noted with regular law enforcement, it's the test of the courts. In Mr. Lorge's case, it has to be the test of

something and he's not asking that it be the test of the courts, but that it be pure and simple common sense. He commented that when Commission staff run a result-oriented investigation and there is a somewhat-result oriented ALJ, the case ends up with result-oriented findings that do not make any sense. He said Ms. Marcus presented a result-oriented petition which gave rise to a result-oriented order.

Mr. Singer then recalled Ms. Marcus's statements that the state of Washington and its great people have the right to trust the gambling process. He stated from his and his client's position, they have the right to trust the Commission and if the Commission is going to take a person's livelihood away, it not only affects this man (Mr. Lorge) but also affects this man (the underlying mortgage holder of the Yard Arm Tavern), because Mr. Lorge has got his license revoked based on no evidence. He then commented it is impossible for him, as an attorney, to say that this is a Commission that is set up and designed to be trusted with law enforcement the way it has been set up and with the accepting behavior of the Attorney General.

Chairman Tull said he's not sure Mr. Singer's remarks about the Commission are proper argument. He asked that Mr. Singer just address legal or factual challenges.

Mr. Singer said he was rebutting what has been said, but that he will move on. He stated that he thinks the legal argument that is before this Commission is that there is not only insufficient evidence, but no evidence that would point to Mr. Lorge being an individual who has willfully or in any fashion whatsoever disregarded the standards of the Gambling Commission. He asked that the Commission review Mr. Lorge's case not only to preserve the integrity of the Commission, but also to allow his client to continue to operate according to the laws that are afforded to him as an appropriate licensee. He said they are asking that Mr. Lorge be given his license back.

Mr. Singer noted that Mr. Lorge has already served a year's suspension, which he couldn't possibly tell how much money that has cost him in not only legal fees, but also lost revenue. He also asked that the Commission not consider the longer term revocation. He also asked again that the evidence be reviewed carefully and those portions of the ALJ's order to which he has referred be reviewed in support of this argument. He thanked the Commission for their time.

Ms. Marcus rebutted Mr. Singer's oral argument, stating the investigation was professional and has withstood the scrutiny of an ALJ. She said this investigation was conducted by many investigators as is reflected in the hearing transcript. The investigation was initiated as a result of a complaint. Both agents Koransky and Semmens testified they had no preconceived idea of whether there was a problem or what the problem was. They started investigating and as they investigated the evidence just kept mounting until the charges were finally issued.

Ms. Marcus said it is true that Mr. Lorge was running the Yard Arm Tavern when his license was suspended, but all of the activities in this case stem from when Mr. Lorge was a part-owner and operator of Bud's and the Runway Tavern. When Mr. Lorge applied for his license with Yard Arm, the investigation was not closed and it would have been inappropriate to deny his license at that time pending an open investigation. It is true he was given a license, but upon finding out what his activities were when he was running Runway and Bud's, Commission staff had no choice but to then revoke his license based on the fraud he committed upon the public.

In response to Mr. Singer's question about what is happening with Runway and Bud's, **Ms. Marcus** said it is incorrect to say that Mr. Lorge was singled out. Runway and Bud's Tavern both have charges pending against them. Those cases have not been completed.

Regarding Mr. Singer's assertions about the payout figures, **Ms. Marcus** said those, too, have been misrepresented. She stated that the state average payout is 62-65 percent, and that is one of the pieces of evidence that the Commission used to prove that Mr. Lorge was defrauding the public in the use of these pull tab games. She said if you look carefully at the findings of fact on pages 8 and 9 of the ALJ's order, the ALJ carefully lists out all of the games that were subject to this fraud and he lists out the payout percentages for those games. The payouts for the games in question range from 6 percent to 30 percent, most of them in the 6 - 10 percent range. If you go through all of the documents that were presented leading to the ALJ's findings on pages 8 and 9, you will see that Runway's had an average payout of 13 percent for the games in question. Bud's Tavern had an average payout of 15 percent for the games in question. If there is a payout of 13 or 15 percent, money is gained and that is certainly well below the state average. She said that is just one of the many pieces of evidence that was used for the ALJ to find that Mr. Lorge used the tabs in a defrauding manner.

Ms. Marcus said the other pieces of evidence the Commission will find is the fact that Mr. Lorge himself testified that he put games out for play and that he reviewed his own gambling records, so he knew what the payouts were on his games. He also deviated from his standard practice in the purchase of the games and in putting those games out to play. Agent Koransky, who physically went through some of the games pulled from play, testified in support of these facts and that testimony has been provided to the Commission. Agent Koransky and some agents from the Renton field office opened the tabs one by one and found all the winning tabs at the bottom of the bag. The ALJ found, based upon Agent Koransky's testimony, that if all of the winning tabs were at the top of the fish bowl, when they were dumped into the bag when the games were taken out of play, all the winners were at the bottom. This was yet another piece of evidence the ALJ used to decide that the games proven to have not been mixed in the box and were placed in certain areas were being put out to play in a specific fashion to defraud the public. The evidence is overwhelming that Mr. Lorge, when he operated Runway's and Bud's, knew where the winners were and put them out for play in a way to defraud the public. She said she thinks the Commissioners will find the same as the ALJ when they go through the record. She thanked the commissioners for their time.

Chairman Tull asked Mr. Singer to turn to page 9 of the ALJ's order. In section 1.19, the ALJ found that The Runway's payout percentage for the APT pull tab games put into play was 13 percent. Runway Tavern's payout percentage for all the other games it removed from play was 65 percent. He asked Mr. Singer to refer to the portion of the transcript that purports to rebut the ALJ's findings regarding the Runway's payout percentages.

Mr. Singer responded that he happens to have the exhibits. He said he doesn't know where the ALJ got those figures because his entire argument was to the contrary. He commented he didn't know what particular figures the ALJ referred to, but Mr. Lorge's documents are marked and are in evidence.

Chairman Tull asked Mr. Singer to take a moment and attempt to locate the figures.

Mr. Singer said because he didn't have the Commission's records, he didn't know what the figures are marked. He said he could find them, but the evidence that was generated was generated from Mr. Lorge's documents, which indicated the total payout for the APT games was 56 percent.

Chairman Tull asked if Mr. Singer knew who testified about the documents on the record. **Mr. Singer** said Mr. Lorge created them. **Chairman Tull** clarified that he wanted to know who testified about Mr. Lorge's documents. **Mr. Singer** said Mr. Lorge testified about his documents. **Chairman Tull** asked where in the record Mr. Lorge testified about his documents. **Mr. Singer** said it would be during Mr.

Lorge's examination, because that's when Mr. Lorge's documents were admitted into the record.

Chairman Tull asked Mr. Singer to provide the citation to the record of the proceedings before the ALJ of where Mr. Lorge testified about his documents. He said Mr. Singer could phone in the citation or send it to the Commission in a memo. **Mr. Singer** asked for a copy of the record of the proceedings. **Chairman Tull** said exhibits 20 and 21 are the licensee's calculations. He then asked Ms. Marcus if she agrees that Mr. Lorge's figures are un rebutted or if she knew where the commissioners should turn in the record to clarify or find support for the ALJ's conclusion at 1.19.

Ms. Marcus said that she does not agree that the exhibits are un rebutted. She said the cross examination of Roger Lorge shows that those exhibits were not complete and there were some games that were excluded. She said the excluded games happened to be some that had extremely low payouts in the single digits. She said the figures are true in the sense of total APT games, but in this case they are specific APT games. She said when the Commission looks at the records, they need to focus on specific games with specific form numbers. The operator had other APT games but those games were not alleged to have been used to defraud the public. She stated she never said that all APT games paid out below the percentage.

Mr. Singer responded that all of the games cited in the ALJ's section 1.17 are in Mr. Lorge's documents.

Chairman Tull said the Commission will take that into account. He then said he would like to hear comments, first from Ms. Marcus and then from Mr. Singer, regarding one line or concept raised on page 21 of the ALJ's ruling. The ALJ states in his discussion of the revocation period, "Lorge will still be required to establish by clear and convincing evidence his qualifications for licensure after the two-year term of mandatory revocation has passed." **Chairman Tull** asked if Ms. Marcus or Mr. Singer have any comments on what that means in terms of the agency's normal proceedings. He clarified that he's not looking to take new testimony, but that he needed to understand whether it means what he thinks it means, so counsels' comments would be worthwhile.

Ms. Marcus responded that she thinks what the ALJ is trying to say is that after two years, Mr. Lorge would be free to apply for a license; however, he still has to comply with the statute regarding who is qualified to hold a license. That statute allows the Commission to look at any of his conduct outside of this case that has occurred within that time period when his license was revoked to help determine whether or not he would then be qualified to hold a license.

Chairman Tull asked whether Ms. Marcus thought the ALJ's statement was outside of the context of this case. He said he would have assumed it to be all conduct. He said he didn't know of any intention by the Gambling Commission to overlook something just because it was brought to some sort of licensing conclusion. **Cally Cass-Healy**, Assistant Director, said that has not been the Commission's policy.

Chairman Tull said he was not aware of whether it was the Commission staff's policy. He said he would let Mr. Singer respond as to what he thinks would happen when either a period of two years, five years, or fifteen years has gone by and if the agency at the time believes indeed that this is a serious matter, would Mr. Lorge be eligible for a license?

Mr. Singer said he believes there wouldn't be any meaningful distinction between two years versus five years versus eight years if the Commission was not predisposed toward believing that once an individual serves his time, he has paid his debt to society. He said he would say that he does not

believe the ALJ has the power to direct the Commission on the procedures regarding licensure. He guessed the ALJ believes that once the two-year suspension has been served, then Mr. Lorge would stand as anybody else would stand in terms of applying for a license and Mr. Lorge would be deemed to have served his time for the indiscretions for which the ALJ has cited and punished him, otherwise the suspension period means nothing at all. It means that this could go on ad infinitum and he said he's certain that's not what it means, otherwise why would they make a distinction between two years and five years or eight years.

Chairman Tull said recognizing that Mr. Singer has consistently asserted the innocence of Mr. Lorge, and because he does not think the parties are actually in a guilt/innocence equation, because he consistently and carefully throughout these proceedings denied that Mr. Lorge has done anything wrong, the question he would have is if someone did the things that the ALJ concluded had been done, would that be similar to using marked cards or loaded dice.

Mr. Singer responded if anybody had known where the winners were and then put them in a spot where the public couldn't get to them, he would say that is analogous to marked cards or loaded dice, but the case would still have to be proven.

Chairman Tull said he understands Mr. Singer's comments and said that as Mr. Singer may not be aware, at the moment the Commission is comprised of individuals who happen to be attorneys at different phases of practice. He said he thinks there is some distinction between the various tests in licensing matters as distinguished from a criminal prosecution. He said he will let Commissioner Heavey, who has more experience on both sides of that issue, ask the question.

Mr. Singer said, in response to Chairman Tull's statement, that he understands the threshold is lowered in licensing matters to a preponderance of the evidence as opposed to beyond a reasonable doubt, but it does make the penalty less onerous.

Chairman Tull said the burden for being granted a license is clear and convincing evidence. He asked if that standard was established by statute. **Ms. Marcus** answered she believed the standard is established by statute in gambling licenses. **Chairman Tull** said he wanted a firm answer as to whether gambling licenses are granted upon showing preponderance of the evidence or clear and convincing evidence that one is qualified to hold a license. He said if necessary, the Commission would consult Mr. McCoy, but he wasn't sure if consulting Mr. McCoy would be proper in this proceeding. **Ms. Marcus** replied that the statute does require licensee applicants to show clear and convincing evidence that they qualify for a license. She said Mr. McCoy could give the exact statute citation, but she is certain the statute requires clear and convincing evidence. **Mr. Singer** said with his luck, the statute will require evidence beyond a reasonable doubt. **Chairman Tull** clarified that for obtaining a license, the statute requires clear and convincing evidence and that a license may be revoked by mere preponderance of the evidence. **Ms. Marcus** said Chairman Tull was correct.

Chairman Tull said, if necessary, the issue can be determined later. He said it is known at least that the ALJ asserts in passing that it appears a subsequent licensing action would require clear and convincing evidence of qualification be shown at the time of licensure.

Commissioner Heavey said he agrees with Mr. Singer, that the ALJ may think that's a nice thing to put in the order, but it has no effect on a subsequent application for a license. **Chairman Tull** said it's either a requirement or not. He thought perhaps it represented the express of opinion of the ALJ that the exact term of the revocation was really just one leg of the eventual problem. **Commissioner**

Heavey said he did not get a chance to review all of the materials on this case, but that he would do so.

Chairman Tull concluded the oral argument on this matter and said the issue will be taken up again after the commissioners have had an opportunity to fully review the materials.

QUALIFICATION REVIEWS

BIG SISTERS OF KING COUNTY, Seattle

Jacki Fischer said the Big Sisters of King County is an organization located in Seattle. They have a Class J bingo license and also licenses for punchboards, pull tabs and amusement games. First formed in 1973, the organization has 300 voting members. They maintain two full-time administrative offices located in Seattle and Renton. Program staff include female volunteers who provide emotional support and special attention to girls and young mothers. In August 1994, the organization moved their bingo facility to a new location in Renton. Net gambling revenues totaled \$106,744 and bingo net income was 10.2 percent of total revenues. The organization spent \$792,948 in support of its stated purposes which included administrative expenses of 30.5 percent.

Staff recommends approval for qualification as a charitable organization for the purposes of conducting gambling in Washington.

BIG BROTHERS/BIG SISTERS OF TACOMA, Tacoma

Ms. Fischer said this is a charitable organization with a Class "K" bingo license, and punchboard/pull tab, amusement game, and raffle licenses. First formed in 1963, the organization has been licensed since 1974. The organization's management and program staff match adult volunteers with boys and girls from single parent households to provide role models and companionship. Other charitable services included providing recreational activities for unmatched children, visiting youth shelters, and participating in a community alliance to develop anti-drug and alcohol programs. The organization served 359 clients during the last fiscal year, a five year high in the number of matches being served. Their gambling revenues totaled \$336,619 and bingo net income was \$297,011. The organization spent \$497,541 in support of their stated purposes.

Staff recommends approval for qualification as a charitable organization for the purposes of conducting gambling in Washington.

Director Miller said regarding Big Sisters of King County, the move obviously hasn't proven to be fruitful. They have seen a tremendous decline in bingo income. He asked to what do the Big Brothers/Big Sisters of Tacoma attribute the decline. **Ms. Fischer** replied that the organization indicated they felt it was due to competition from other games in the area. The organization also indicated some of the are games have been doing things that they have not been doing and may have been behind the times a little, but they've caught up now.

SEATTLE JUNIOR HOCKEY ASSOCIATION, Mountlake Terrace

Ms. Fischer said the Seattle Junior Hockey Association is located in Mountlake Terrace. The

organization has a Class 30 bingo license and also licenses for punchboard/pull tabs, amusement games, and raffles. First formed in 1974, the organization has 42 voting members. Management and program staff coordinate the activities of six major clubs. Additionally, players age 5-21 compete against west coast and Canadian leagues. During the last school year, the organization served 983 clients. Their contributions totaled \$47,990. Scholarships totaled \$30,126 and sponsorships totaled \$3,950. Their net gambling revenues totaled \$1,000,794, of which bingo net income was 74.7 percent. They spent \$1,327,638 in support of their stated purposes.

Staff recommends approval for qualification as a charitable organization for the purposes of conducting gambling in Washington.

Chairman Tull asked if John Beadle could answer the question of why revenues have declined.

John Beadle, Executive Director/Secretary/Treasurer of Seattle Junior Hockey, mentioned he wrote a letter to the Commission in November providing an analysis of his organization. He noted in their last fiscal year his organization dropped 17.5 percent. He said for two years in a row net income has fallen 28.52 percent, a reduction of \$400,000. However, He said the net income has stabilized in the first six months of their present fiscal year. He said they're just about even with last year. He attributes the downturn to added competition, not just from the Indians. In addition, he mentioned it's not just gambling, but the entire entertainment industry is down. For instance, the fairs in Washington are down 25 percent.

Chairman Tull asked what do people think is causing the downturn, besides consumer debt.

Mr. Beadle replied he thinks a lot of people are misguided and think Washington's economy is really good when he believes it isn't.

Chairman Tull asked staff to provide him with a copy of Mr. Beadle's letter, which he thought was part of the Commissioner's November meeting agenda packet.

SEATTLE JAYCEES, Tukwila

Ms. Fischer said Seattle Jaycees are located in Tukwila. They have a class "L" bingo license and a license for punchboards and pull tabs. The organization was formed in 1938 to provide leadership training to its members through community service. The organization's members aged 21-39 receive leadership training through role playing exercises and managing fund raising projects. The organization also sponsors free youth oriented programs including the Hugh O'Brien Youth Leadership Foundation, a scholarship program, and the Seafair student ambassador program. The organization's contributions totaled \$48,332 and scholarships were \$26,666. The net gambling revenues totaled \$347,960 and bingo net income was 71.1 percent of total revenues. They spent \$387,027 in support of their stated purposes.

Staff recommends approval for qualification as a charitable organization for the purposes of conducting gambling in Washington.

Commissioner Heavey inquired as to the organization's purpose for requesting permission to carry excessive reserves was to establish an endowment fund when they say they have over \$600,000 in the bank.

Ms. Fischer said yes; however, the money in the bank is not technically an endowment at this point.

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She said Commission staff are working with the organization to help them meet the endowment requirements. Staff do not yet know if and when the organization is going to meet the endowment criteria, but staff is working with them.

Commissioner Heavey recalled that such requests we recently added to the rules regarding excessive reserves -- that an organization requests the Commission or the Director to exceed some amount. He asked for clarification regarding whether the process for requesting permission to exceed the excessive reserve requirements begins with the director granting or denying permission and then appealing a denial to the Commission.

Ms. Fischer replied Yes.

BOYS' AND GIRLS' CLUBS, TACOMA/PIERCE COUNTY, Tacoma

Ms. Fischer said the Boys' and Girls' Clubs of Tacoma/Pierce County have a class "I" bingo license and also licenses for punchboard/pull tabs and fund raising events. She said the organization has been licensed since 1979 and has 132 voting members. The organization consists of four branches located throughout Pierce County. Each branch is governed by its own local board of directors and collectively represents the Tacoma/Pierce County group of boys and girls clubs. The organization served an all-time high 5,903 boys and girls during the last fiscal year. Net Gambling revenues totaled \$227,372 and bingo net income was 11.2 percent of total revenues. The organization spent \$1,600,589 in support of their stated purposes.

Staff recommends approval for qualification as a charitable organization for the purposes of conducting gambling in Washington.

SPOKANE ATHLETIC ROUND TABLE, Spokane

Ms. Fischer said the Spokane Athletic Round Table is located in Spokane. They have a class "J" bingo license and also a license for punchboard/pull tabs. They were first formed in 1936 and have been licensed since 1982. The organization provides civic and charitable services indirectly through cash contributions to promote sports programs for underprivileged and handicapped children and to various nonprofit charitable organizations. Contributions for the licensee's last fiscal year totaled \$91,950. Net gambling revenues totaled \$235,856 and bingo net income was \$191,234. They spent \$178,133 in support of their stated purposes including administrative costs of 40.4 percent.

Staff recommends temporary approval for qualification as a charitable organization for the purposes of conducting gambling in Washington.

Chairman Tull said no action would be taken on these qualification reviews until Commissioner Phelps arrives. He said Director Miller has requested an executive session to discuss a number of items, and that may also be deferred until Commissioner Phelps arrives.

PETITION FOR RELIEF FROM NET INCOME REQUIREMENTS

UNITED BLIND OF THE TRI-CITIES, Kennewick

Ms. Tellefson directed the commissioners to their handout packets for written information regarding

WSGC Meeting, Silverdale, WA
Thursday, January 11, 1996

this petition for relief. She also noted additional written information was provided by the petitioner today.

Frank Cuta, president and chairman of the board of United Blind of the Tri-Cities (UBTC) said the update that he provided the Commission today reflects a major change in their plans for the near future. When UBTC originally submitted the petition, it was UBTC's intention to try and get out from under its excessive rent by breaching its lease and moving to a less expensive place. He said UBTC has since decided that it was not a good idea to breach the lease. UBTC now plans to remain for rest of the lease until it comes to an end in sixteen months and then move to a less expensive location. He then directed the Commission to the quarterly numbers for UBTC's bingo payout percentage and for the combined net income figures for the last four quarters.

Mr. Cuta said he has been going through the materials submitted and noted there are a few inconsistencies and said he would like to resolve them at this time. A principle issue remains that UBTC would like to be released from its lower license class restriction. UBTC also requested release from any penalties that might result from not properly reporting out of compliance numbers for three quarters. He noted that the first two quarters were not properly reported, but that the third quarter was properly reported and this quarter will certainly be properly reported. He clarified the number provided for the combined annual net income for the four quarters is wrong due to errors in receiving the numbers over the phone, then copying from one computer to another. He said the number should be -1.6, not the large positive figure. He noted the last quarter figures show a marked improvement since the first three quarters of the year and that UBTC is in compliance for its current license.

Mr. Cuta related that UBTC's accountant created the numbers as quickly as she could so that he could bring them to the Commission meeting, but that one of the figures will be affected by adjustments for "not sufficient funds" checks (NSF). However, it was not clear to him which figure will be affected, although he believes it would be the annual or last quarter net income compliance figures or both. He remarked that UBTC has not decided how many checks will be written off for last year, so that information has not yet been taken into consideration. He related that UBTC's accountant believes charges for NSF checks could actually decrease the net income compliance figure by a full percentage point.

Mr. Cuta also noted that somewhere in his written testimony he stated a decrease in rent was necessary to improve UBTC's prize payout percentages, which he said doesn't make any sense and would like the Commission to disregard the statement.

Mr. Cuta next mentioned he made many comparisons in his written testimony of attendance increases and decreases which he would like to amend to say that UBTC's attendance decreased considerably, about 15 percent at one time, but that it is hard to calculate how much it has increased now because UBTC calculates attendance on a per session cost. He also noted UBTC has changed management and that its new manager cannot explain the way the old management calculated attendance figures. He said his understanding of what UBTC used to do was take the total attendance for a month and divide it by the number of sessions in that month to get a per session attendance. He noted UBTC has done some strange things like introducing speed bingo, which has a small attendance and has a small payout, then taking speed bingo out, as well as taking out the late night session and introducing another session in a different place, and so on. He said he believes all the different sessions and different sizes confused the attendance numbers so much that he could not tell exactly how much UBTC's attendance has changed in the last year and a half, only to say that it decreased substantially, probably about 15 percent, but that it has now increased, which is reflected in the better numbers this last quarter in both prize payout and net income percentages. However, he cannot say

UBTC's attendance is back up to where it was or how much the attendance has been affected by economics and the competition from Indian reservation operations or other factors.

Mr. Cuta said if the petition is accepted, and if UBTC is able to increase its operation to a class "F" and continue work, even if the operation just breaks even for the next sixteen months, UBTC will be able to use at least \$32,000 of reserve funds to support its worthy programs. If the petition is rejected, it appeared to him UBTC would be forced to close its doors because it wouldn't be able to increase its license class. He said UBTC would only be able to protect the \$70,000 it has in reserves if it were able to sublease the facility in which it's presently located. If UBTC is unable to find a sublessor, all the money in reserves will go to UBTC's landlord for breaching the lease. He noted that under the present economic conditions, UBTC's landlord has been unsuccessful in securing a tenant in the last two months and UBTC does not know what the chances are of the landlord finding another tenant.

Director Miller asked what funds they receive from other sources and how much. **Mr. Cuta** responded UBTC receives between \$500 and \$1000 dollars from private entities, corporations, and memorial funds. **Director Miller** clarified that bingo and pull tabs are UBTC's primary source of income. **Mr. Cuta** said yes, and that UBTC is applying to the United Way for funds, but UBTC has just begun the process. **Director Miller** asked when does UBTC's current license year end, because as he understands the mandatory downgrade rule, a downgraded licensee would have to close their doors when it reaches the maximum gross income threshold for its new license class. **Mr. Cuta** responded UBTC should reach its maximum gross receipts threshold by the end of January, beginning of February. **Director Miller** asked about UBTC's plans and clarified that UBTC says it could save \$60,000 per year if they moved to a new location. He then asked if there was a new location already identified when the lease expires. **Mr. Cuta** said there is not presently any place chosen into which UBTC would move at the end of its current lease. He noted UBTC was looking at a place, but there was not adequate parking available. He noted he believed that within a year, UBTC would be able to find a place. **Director Miller** then clarified that in 1994 UBTC had a net income of 3.5 percent. **Mr. Cuta** said yes.

Chairman Tull asked if any audience members would like to testify in favor of or in opposition to UBTC's petition for relief. He said the Commission rules are designed to protect the licensees and also to help maintain a level playing field for all bingo operations. No one came forward to testify. **Chairman Tull** said after further questions are asked, he would like to hear the staff's advice on this matter. He also reminded the audience that in Commissioner Phelps' absence the Commission will not be able to take action, but would like to conclude as much as possible this phase of the discussion. He then asked Director Miller if he had further questions.

Director Miller noted UBTC's petition presents new issues which staff have not yet fully developed a program to advise the Commission on what course to take. He remarked the goal is obviously to keep somewhat of a level playing field that works in the Tri-Cities community. He then asked Mr. Cuta how much profit was made in the last quarter. **Mr. Cuta** said no money was transferred in the last quarter from the bingo to UBTC's program fund. **Director Miller** asked if it was a fair assumption that UBTC has lost \$20,000 in the last year. **Mr. Cuta** said yes, but clarified that UBTC did not lose money during the last quarter. However, during the previous three quarters, he noted it was necessary to twice transfer funds from the program account to the bingo account to make sure there was enough money to pay prizes. He said UBTC has tried to maintain \$20,000 in the bingo account, and that during the last quarter, the bingo account has nearly been brought up to that amount.

Director Miller asked Ms. Cass-Healy when UBTC's license year ends and when its downgrade

would require them to cease operations. **Ms. Cass-Healy** said when UBTC's gross income exceeds its license class, which Mr. Cuta has indicated will be at the end of January or the beginning of February. **Ben Bishop**, Deputy Director, clarified that UBTC's license expires June 30th. **Mr. Cuta** said yes.

Mr. Bishop asked Mr. Cuta if UBTC is petitioning to go to Class F or Class G. **Mr. Cuta** said Class F, but that if business improves, UBTC would apply to increase to Class G. **Ms. Cass-Healy** asked if UBTC is requesting relief from all net income requirements regardless of license class at this point. **Mr. Cuta** said he did not state a threshold figure, but he probably could have named a figure. He said he's been focused on preserving the money UBTC has rather than setting some threshold after which UBTC would have to give the money to the landlord. **Director Miller** advised that the Commission should take action either today or tomorrow, or else UBTC might be forced to close before the Commission meets in February.

Chairman Tull said that since no action can be taken this afternoon, it would be appropriate to set this matter over until tomorrow. **Mr. Cuta** said that he would make arrangements to stay if it is valuable to have him attend and contribute information during tomorrow's meeting. **Chairman Tull** said that as long as he is available by phone, staff can call him if there are any questions. He said staff will also be able to talk to him following today's meeting before he leaves. **Mr. Cuta** agreed.

Director Miller said he would like to clarify a couple of points. He asked how much UBTC has in the bank now. **Mr. Cuta** said between \$60,000 and \$70,000. **Director Miller** said that if relief is not granted at this time to operate at a Class F, the money in the bank would go to the landlord to make up for the breach of the lease. **Mr. Cuta** said yes.

Director Miller asked what UBTC's long term goals are given its difficult situation, such as when would the organization fold if the income does not turn around. **Mr. Cuta** said the goal now is to get through the end of the current excessive lease, find a new place and have enough money in reserves to remodel a new place, and continue with UBTC's business.

Director Miller asked how long a Class "F" license, which allows gross receipts of up to \$1 million, would carry UBTC. **Mr. Cuta** said if business continues as it has been, UBTC will just make it, but if business improves, UBTC will need a higher license class.

Mr. Bishop asked if the goal of this petition is to allow UBTC to operate outside of the net income requirements, or if the goal is to get the license class increase and then work to come into compliance. **Mr. Cuta** said that in the petition for relief he asked for relief from the license class downgrade they are now under. He then noted the supplemental material he handed out today states that UBTC's goal is to continue to operate in the black and strive to achieve compliance in the next sixteen months.

Commissioner Heavey asked if the net income issue for the next sixteen months were analyzed based on a reasonable rent figure rather than UBTC's actual rent and then make a determination whether UBTC meets the administrative requirements based upon the hypothetical figure, not the actual figure. He noted that such an analysis would provide a good indication of whether UBTC would be able to continue operations under a reasonable rent or whether it should shut down its operations. He asked staff to take a look at that option.

Director Miller noted UBTC did not meet the qualifications to participate in the license class downgrade moratorium and bingo study because it has been more than 2.5 percent out of net income

compliance. **Mr. Cuta** said he believes UBTC does now qualify for the moratorium under the last quarter's figures. **Mr. Bishop** noted that was something to take into account.

Director Miller said that at this point, he is concerned that if relief is not granted without an opportunity to see if UBTC can make it, the money will go to the landlord rather than UBTC's programs. He said he would like to talk over options with staff to see if UBTC could possibly operate at some compromise level and come back tomorrow with a proposal for the Commission to consider.

Commissioner Heavey noted in his interpretation of WAC 230-20-064, consideration must be given to how much of the petitioning party's funds support charitable as opposed to nonprofit purposes, and if the organization is charitable, which he believes UBTC is, then the rule authorizes more flexibility in dealing with charitable organizations. **Director Miller** agreed, noting that the rule was written to mirror the Commission's enabling statutes which authorize the Commission to take into account charitable versus nonprofit purposes when establishing various gaming limits for the respective organizations.

Chairman Tull called for a recess to allow time for Commissioner Phelps to arrive. He noted recess will last until Commissioner Phelps arrives, at which time the Commission will go into executive session. The items remaining for action will be held over until tomorrow's meeting. There will be no further public agenda items today. He then asked Jon McCoy, Assistant Attorney General, if there would be any legal objection to recessing until Commissioner Phelps arrives.

Mr. McCoy responded that such a recess and reconvening for executive session, while not at a time certain, is in substantial compliance with the law.

Commissioner Phelps arrived; **Chairman Tull** called for an executive session. Meeting was adjourned.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, JANUARY 12, 1996

Chairman Tull called the meeting to order at 10:05 a.m. at the Silverdale on the Bay/West Coast Hotel in Silverdale, Washington.

MEMBERS PRESENT: **ROBERT M. TULL, Chairman; EDWARD HEAVEY, and S. DON PHELPS**

OTHERS PRESENT: **FRANK L. MILLER, Director;
BEN BISHOP, Deputy Director;
SHARON TOLTON, Assistant Director, Special Operations;
SHERRI WINSLOW, Assistant Director, Field Operations;
CALLY CASS-HEALY, Assistant Director, Licensing;
CARRIE TELLEFSON, Special Assistant, Public Affairs;
MIKE TINDALL, Program Manager, Tribal Gaming Unit;
JACKI FISCHER, Financial Investigations Unit;
JONATHAN McCOY, Assistant Attorney General; and
SUSAN GREEN, Executive Assistant.**

Chairman Tull said there will be modifications to the published agenda to include some items from yesterday's agenda. Yesterday's items to be included today primarily include qualification reviews and a petition for review of an administrative law judge's (ALJ) order, and will be taken up at the end of today's meeting.

APPROVAL OF THE MINUTES FROM THE NOVEMBER 12 & 13, 1995, MEETINGS

Commissioner Heavey moved to accept the minutes from the November 12-13, 1995, Commission meetings in Lynnwood, Washington, as set forth in the agenda packet. **Commissioner Phelps** seconded the motion. *Vote taken, motion carried with three aye votes.*

STAFF REPORTS

STAFF TURNOVER AND RETENTION REPORT

Director Miller said the staff retention issue is still being studied by Phyllis Halliday, Special Assistant to the Director for Human Resources and Development, who has been ill recently. The report will be presented at the February Commission meeting.

BINGO TASK FORCE

Mr. Bishop reported on the first meeting of the Bingo Task Force, which was held last evening. He reviewed the effect and purpose of the emergency rule passed by the Commission regarding the moratorium on issuing mandatory license class downgrades for failure to meet net income requirements while Commission staff study what factors beyond licensee's control may be having on their ability to meet their license class requirements. He also noted the Commission asked that a task force be convened for the purpose of conducting the study.

Mr. Bishop said the approach will be to divide the state into seven market areas. A representative has been appointed from each of these areas. The representatives will represent the licensees within their market area. He said there will also be a representative from the Federation of Clubs to represent the small- and middle-size games. Meetings will be held in each area to get direct input from the various licensees, study the direct impacts, and then come forward to the Commission with a recommended plan this summer.

Mr. Bishop said the study will concentrate on the period 1990 to 1995 and directed the Commission's attention to a comparison of figures from the years 1990 and 1995 which was distributed this morning. He noted the comparison shows that the larger games increased gross receipts by \$47.7 million, a 38.1 percent increase, which equals an average annual increase of 7.6 percent per year. Looking at the total of all games, the average annual increase is 3.1 percent. The larger games grew considerably faster than the smaller games. A key point is that while gross receipts were growing 38.1 percent, the net return to licensees decreased .7 percent, which means that while gross receipts grew \$47.7 million, net income fell \$100,000.

Chairman Tull asked about the meaning of the marked increase in equipment rent/depreciation and maintenance costs, and whether there has been some change in the accounting of such expenses.

Mr. Bishop said there might have been some change in the utilities, repairs, and maintenance because in 1990 those figure were combined under occupancy costs, which staff had to break out individually. In the equipment, the big change has to do with the electronic daubers. It is likely that the electronic daubers account for a great deal of the increase in gross receipts; however, they are very expensive items right now. He remarked that the 334 percent increase in equipment figures is certainly an area which will be addressed in the study.

Chairman Tull said it would be very helpful and informative to have the commissioners participate in the task force meetings as often as possible.

PHASE II REVIEW

THE CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION

Mike Tindall, Program Manager, Tribal Gaming Unit (TGU), said the Confederated Tribes of the Chehalis Reservation has a membership of 525 to 530 and a reservation comprising approximately 400,000 acres near the city of Rochester in Southwest Thurston County. The consideration of Phase II scope of operation comes to the Commission after the casino opened under Phase I scope on June 9, 1995. Phase I limited the operation to 112 hours per week, \$250 bet limits per element of chance, and 32 gaming stations. Phase II allows for increases in hours of operation to 140 hours per week, bet limits to \$500 per element of chance, and up to 52 gaming stations, including charitable tables.

Mr. Tindall said the tribe is represented today at the meeting by the tribal chairman, Mel Youckton, and the tribal attorney, Howard Chesnin. **Mr. Tindall** then asked Mr. Youckton to introduce the other members of the Tribe who were present. **Mr. Youckton** introduced Ray Accomando, Tribal Gaming Agency Executive Director, Kelly _____, Mr. Accomando's assistant, Virginia Canelis, Chair of the

Tribal Gaming Commission, Marie Griswold, Tribal Gaming Commissioner, and Irene Thompson, Tribal Gaming Commissioner.

Mr. Tindall said the review begun by TGU staff in October, 1995, required approximately 500 hours of staff time to complete. The review involved analysis of the entire operation, along with reviewing the independence and functionality of the Tribal Gaming Agency. The results were presented in a report and memorandum to the Director in early December, 1995. The report stated the following: there have been no sanctions imposed on the Tribe by the federal district court or the National Indian Gaming Commission; there was only one substantial violation of the tribal-state compact, which has been remedied; there have been no violations of Appendix A; all minor issues discovered by the review have been corrected by this time; there have been no material adverse impacts on the surrounding communities; and the Tribal Gaming Agency has developed and functions independently as the primary regulatory body in the facility.

Mr. Tindall said the Tribal Gaming Agency has established rules and regulations, initiated programs for reviewing casino operations, developed a system of reporting unusual occurrences and compact violations, and have generated a license for all employees of the facility. Currently the Tribal Gaming Agency is in the process of licensing the facility's vendors and peripheral suppliers. **Mr. Tindall** also noted there was an issue regarding interim financiers -- two financiers who had a very minor interest in the facility had not been licensed by the tribe; however, that has been remedied. The Tribe itself has developed a strong program of regulation and control and have demonstrated a high level of proficiency at doing so.

Mr. Tindall said the facility employs 553 people, of which 50 are Chehalis tribal members, 11 are spouses of Chehalis tribal members, and 8 are descendants of Chehalis tribal members. 35 employees are from other tribes within the area. The recommendation of staff is to approve the Tribe to move to Phase II scope of operation on an unconditional basis.

Chairman Tull asked if the tribal chair has a presentation.

Mel Youckton thanked the Commission for the 30 day temporary approval of Phase II level of operation pending today's meeting and outcome of the Commission's formal vote. He said the temporary approval shows that government to government relations can really work. He also noted that other tribes in Washington are deciding to sign compacts, which also shows that government to government relationships are working and signifies a better trend than a year ago. He then thanked Director Miller and the Commission staff for their hard work.

Chairman Tull asked what Mr. Youckton sees in the future for the tribe in terms of competition or expansion or issues of particular interest to the Tribal Council which might be of interest to the Commission. **Mr. Youckton** said they need to maintain good entertainment for the customers to keep them coming back. At the moment, competition is not much of a factor because of the employee's hard work and friendly atmosphere.

Commissioner Phelps asked if there has been an increase in employment since moving to Phase II. **Mr. Youckton** said yes, employment has increased by 20 and is anticipated to continue to increase. **Commissioner Phelps** asked how the public has reacted to the increased hours. **Mr. Youckton** said the increased limits really helped, and they are now drawing people up from Portland. He also said the increase in hours should also positively affect the restaurant. **Commissioner Phelps** asked if Mr. Youckton attributes the significant increase in business to the new phase of operation. **Mr. Youckton** said yes. **Commissioner Phelps** asked how many days the casino was closed due to flooding. **Mr. Youckton** said they had to close three nights due to flooding but made up for the loss through the

temporary Phase II levels, holiday business, and staying open for 70 hours straight over the New Year's holiday.

Chairman Tull asked staff if there have been any difficulties with continuous operation periods. **Mr. Tindall** said four facilities operated extended hours over the New Year's weekend which Commission staff attended from time to time and found no adverse conditions or problems.

Commissioner Phelps asked if there have been any comments received following notification to the local officials of the Phase II consideration. **Mr. Tindall** said there have been no negative comments. He said there have been pleasant responses from Thurston County and no negative opinions expressed. In addition, the Oakville Police Department has not contacted the Commission with any concerns.

Director Miller commented that the relationship between the Commission and the Confederated Tribes of the Chehalis Reservation is strong and he is very proud of it. The Chehalis have been a tribe that has been very supportive of the Commission's tribal gaming program. They were also leaders in opposing Initiative 651. The Tribe is committed to good regulation and he looks forward to a strong future with the tribe. He thanked Mr. Youckton for his hard work and expressed his appreciation.

Commissioner Phelps moved to accept the recommendation of staff to approve Phase II scope. **Chairman Tull** said the first Phase II review occurred approximately one year ago when a procedure for the review had to be invented. He noted the process has settled down and the reviews are very thorough. **Chairman Tull** seconded the motion. *Vote taken, motion carried with three aye votes.*

REVIEW OF CONDITIONAL PHASE II APPROVAL TULALIP TRIBES

Mr. Tindall said the Tribe apologizes for not being able to attend today's meeting due to some changes going on at the casino and several tribal council members being out of state. The original Phase II review for the Tulalip Tribes occurred in June. The review of the conditional approval began in November, 1995. The Tulalip Tribes consists of approximately 2,275 members and is located west of Interstate 5, just north of Marysville, extending approximately between Marysville and Smokey Point. The Tribe's gaming facility currently employs 711 persons, 265 of which are Tulalip Tribal members, 85 are tribal members of other tribes, and 361 are non-tribal members from the local community. The casino opened on July 15, 1992. The conditions set by the Commission were the focus of the Commission staff's review.

Mr. Tindall said Commission staff review found the Tribal Gaming Agency has been functioning independently as the primary regulatory body within the gaming facility. In the past, Tribal Gaming structure hindered the effective and independent regulation of casino. In May 1995, the Tribal Gaming Commission was restructured and a Tribal Gaming Court was established. The earlier independence problems appear to have been eliminated due to the changes. The Tribal Gaming Agency has further developed their system of reporting compact violations to include a response period for the facility's management and have created new forms upon which to present information to the Tribal Gaming Court. The Tribal Gaming Commission issued regulations in May 1995, the most extensive set of regulations so far offered by a tribal gaming agency. Staff were impressed by the Tribal Gaming Agency's commitment to resolving the issues that were the focus of the conditional Phase II approval and have developed a strong relationship between the Commission and the Tribal Gaming Agency. The staff recommends unconditional approval to operate at Phase II levels.

Chairman Tull asked whether it was Mr. Tindall's personal belief that the various elements of the Tribe's operations, both inside and outside the casino, understand the importance of the regulatory programs and whether that understanding is deeply entrenched enough that the Commission should have confidence to move forward. **Mr. Tindall** said yes. He then introduced Fred Wilson, the Commission agent who performed the conditional review, who was present to answer any specific questions.

Commissioner Phelps asked how many Tribal Gaming Commissioners are also on the Tribal Council. **Mr. Tindall** said none. The Tribal Gaming Commission is a seven-member panel which is independently elected separate from the Tribal Board of Directors. He said previously, the Tribal Gaming Commission was comprised of four members of the Tribal Board of Directors who were appointed by the entire Tribal Board of Directors. **Commissioner Phelps** asked if Mr. Tindall believed the Tribal Gaming Commission is operating autonomously. **Mr. Tindall** said he believes they are at this time and that he expects them to continue to operate independently. **Chairman Tull** commented the Commission has had the longest working relationship with the Tulalip Tribes and is pleased to see how the relationship has evolved through the compact process and now the increased awareness of regulatory programs. **Commissioner Phelps** said this is a very good report and it appears major changes have been made.

Commissioner Heavey moved for approval. **Commissioner Phelps** seconded the motion. *Vote taken, motion carried with three aye votes.*

HOUSEKEEPING CHANGES -- RAFFLE TICKET PRICES

Amendatory Section WAC 230-20-325
Manner of conducting a raffle

Amendatory Section WAC 230-20-335
Raffles conducted among members of an organization--Procedures--Restrictions

Amendatory Section WAC 230-25-040
Fund-raising event--House rules to be developed and posted--Limitations on wagers

Amendatory Section WAC 230-25-220
Raffles or similar lotteries conducted at fund raising events

Ms. Tellefson said these are housekeeping changes to reflect the Legislature's change made during the 1995 session, which authorizes the sale of raffle tickets up to \$25 as opposed to the former limit of \$5. These rules are up for final action.

Chairman Tull called for public comment. No one came forward.

Commissioner Phelps moved for approval of this package of rule changes. **Chairman Tull** seconded the motion. *Vote taken, motion carried with three aye votes.* The rules become effective July 1, 1996.

NET INCOME REQUIREMENTS

Amendatory Section WAC 230-20-064
Maximum receipts, prizes, and expenses for bingo games--Net income required.

Ms. Tellefson said this rule was filed as an emergency and was proposed by staff in October to impose a moratorium on the issuance of mandatory downgrades under the bingo net income rule for charitable/non-profit licensees. She said Mr. Bishop's meeting with the Bingo Task Force was the first meeting in accordance with the rule and the Commission's wishes. The rule gives Commission staff the opportunity to study potential causes of the downgrades that have been occurring and come back with a recommendation within a year while allowing licensees to operate under their current license class limits. **Commissioner Phelps** moved to adopt the rule. **Commissioner Heavey** seconded the motion. **Chairman Tull** called for public comment.

Don Kaufman, representing Big Brothers and Sisters in Spokane, said being a game in Spokane surrounded by slot machines operating Friday, Saturday, and Sunday, his main concern is the highest level of competition comes from the slot machines. He said his organization may have trouble meeting the 2.5 percent variance requirement even though they have taken several steps to freeze wages, streamline operations and even dropped a session.

Chairman Tull asked about the genesis of the 2.5 percent variance. **Director Miller** said it was a staff proposal that tried to look statewide and take a figure that was fair to all and encompass most of the games experiencing difficulties. He noted if a game does not meet the requirements of the rule, they could always petition the Commission for relief. **Ms. Cass-Healy** clarified that the downgrade would be automatic if a game did not meet the requirements of the moratorium, but that the organization could petition for relief from the downgrade. **Chairman Tull** suggested changing the number so it is slightly higher, such as 3.5 percent. He said he has confidence in groups like Big Brothers/Sisters of Spokane that he would rather adjust the percentage rather than make them jump through the hoops of petitioning for relief. **Director Miller** noted there are other conditions besides being within 2.5 percent of a licensee's net income requirements, including requesting to be a part of the moratorium and study, and freezing controllable expenses. He said there will be a thorough analysis with options by this summer.

Chairman Tull asked what the implications of changing from 2.5 percent to 3.5 percent would be. **Commissioner Phelps** said that when staff made its initial presentation, he asked the same question and staff responded the 2.5 percent figure was optimal and would cover most of the people experiencing difficulty. **Ms. Cass-Healy** she believes we are now seeing more organizations being affected over time. She said the immediate effect of going from 2.5 percent to 3.5 percent would be less work for staff and a little less work for the licensees in going through the petition for relief process. **Commissioner Phelps** said there will always be people that fall just beyond the variance, no matter what figure is chosen. **Commissioner Heavey** said his view is that while this problem is being studied, there ought to be enough flexibility to be able to study the problem. Enough room should be given for this six-month period of study, or make a decision to not downgrade anyone during this study period.

Commissioner Phelps said he is still in favor of finding an optimum number that encompasses most of the licensees and would even support Commissioner Heavey's suggestion of holding all downgrades in abeyance until the study is completed. He then asked for Director Miller's opinion. **Director Miller** said staff is concerned with solving the problem. He is not sure whether changing the rule or its enforcement would make a difference in what's happening now in terms of the competitiveness of the market and who makes it or who doesn't. In that respect, the bottom line is solving the problem and Commission Heavey's suggestion is consistent with what staff is trying to achieve, which is the best solution for 1997 and beyond. **Commissioner Heavey** asked Director Miller's opinion of a one-year moratorium on all licensee downgrades. **Director Miller** said that wouldn't be a problem.

Chairman Tull recalled there has always been substantial interest and support from the licensee community that other licensees are required to make money because it protects licensees from people just running a bingo for the staff and competing unfairly. He said he is reluctant to turn loose of the requirement for one year. **Mr. Kaufman** said he is satisfied that appropriate safeguards are built into the moratorium process to prevent abuses from taking place. He said he is not sure the Commission understands how imperative the problems are in Spokane. He noted his organization's chief competition is probably from the Kootenai Indian Tribe in Coeur D'Alene. He said that Tribe did almost \$5 million dollars in bingo on three days a week, one session per day, with a 93 percent payout. His organization cannot payout more than 70 percent. The Tribe went from earning \$8 million to \$24 million dollars in 12 months. He estimates that 75 percent of that money is coming out of Spokane county.

Mr. Kaufman said the tribe in Idaho spends half a million dollars in advertising and his organization cannot compete with that. He said there's nobody in Washington that can compete with them.

Director Miller replied that one option is to petition for relief. He then asked Mr. Bishop whether under WAC 230-20-064 (7)(b) there should also be a requirement to maintain the prize payout percentages for an organization's license class. He said he did not want to see an increase in prize payout all of sudden to gain new customers because that would tremendously impact on other bingo competitors. He noted the Commission used to have two measuring sticks - prize payout and net income - and now the Commission has simplified it where staff looks at the bottom line. **Director Miller** asked Mr. Kaufman what he thought about requiring a prize payout.

Mr. Kaufman asked whether the Commission has taken away its authority to regulate payouts. **Director Miller** replied action is taken against the bingo manager for prize payout violations. He asked Mr. Kaufman if that would be sufficient. **Mr. Bishop** responded he personally has a concern of passing a regulation authorizing a bingo game to lose money and still operate. He suggested the Commission add a condition that an organization absolutely cannot lose money.

Commissioner Phelps suggested the Commission maintain the rule as is and allow the individual games to petition and grant Mr. Miller or Mr. Bishop interim authority to grant relief from net income requirements on a case by case basis until the next meeting. He said that way everybody has an opportunity for relief, the rule remains as is, and the Commission is able to protect not just the interest of the individual petitioning game but everybody else who has to compete in the market place.

Chairman Tull asked John Beadle if he would also respond to the suggested alternatives, in addition to any comments he wants to make.

John Beadle asked if the Commission could give the Director of the Gambling Commission discretionary authority to go outside of the parameters if there are special circumstances, such as exist with the Big Brothers/Sisters of Spokane. **Chairman Tull** agreed. He said absence of a specific empowerment of the director has not been needed in the past, but this could be done in order to shift the burden from the Commission members to the director, which would help limit the time spent in public meetings trying to address each individual case.

Director Miller asked for direction regarding possible rule language to allow the Director discretion to grant relief if a licensee is more than 2.5 percent out of compliance. He said he would like the ability to look at each game individually and possibly allow the game to go beyond 2.5 percent if it maintains other conditions such as a certain payout level. Then, if the game cannot meet the conditions, it would be able to ultimately seek relief from the Commission.

Chairman Phelps asked whether Director Miller would establish the conditions by written letter which the bingo game could appeal to the Commission if it was not in favor of the conditions.

Commissioner Heavey said he doesn't see a problem with freezing downgrades if they are required to freeze expenses during this next year. If they can't increase the expenses, they can't do anything else and while staff is studying the problem. He said why create a problem where somebody says "Gee whiz, you gave him a break and you didn't give me one!" or where somebody says "Well, I don't think you should've given them a break, I think they should've gone out of business."

Katie Casey, Whatcom County Crisis Services, said her organization experienced similar difficulties in its last period of '94 or '93. She said it was not difficult to write the letter to the Commission staff and explain what had happened and why her organization was in the state it was in. She said one quarter had already passed where her organization was in compliance and that she would hesitate to discard the net income requirements altogether, but would prefer to leave some kind of percentage in, because while most groups are professional and responsible, not all licensees are as responsible.

Ms. Casey said she would be a little leery if her competitor was not making the effort to be in compliance and there was very little leverage that the Commission staff could use for a period of time because to force compliance takes time. She said it takes maybe 6 months before something can be done. She remarked the Commission can't just go in and close a game, although the licensees all think the Commission has the authority, the Commission really does not have the authority because of the appellate process. She said she is in favor of keeping any net income or prize payout percentage limitation in the rule. She offered that what she knows from her organization's experience is that Commission staff are extremely reasonable and all it takes is a letter with an explanation.

Commissioner Phelps asked Ms. Casey if she felt purpose of the discussions thus far have been to keep less professional organizations from exploiting the change in the rule.

Ms. Casey said yes, because when the rule gets exploited, it is the rest of the operators who will pay the price.

Director Miller said there are two potential options. One option would be to do away with the requirement to be no more than 2.5 percent out of net income compliance because of the freeze on controllable expenses and maybe add a prize payout limit. The second option would be to leave it the net income variance at 2.5 percent and give the Director discretion on a case by case basis to grant relief for a year. He said either way there are those games that are going to make it and those that aren't. He said the Commission is looking at a handful of games this year that are going to have a hard time making it.

Mr. Bishop asked to offer another alternative that gets very close to Commissioner Heavey's suggestion. **Mr. Bishop** suggested to allow a net income variance of 4.5 percent provided that no licensee may lose money. He said that would allow the Class "F" licensees not to suffer a downgrade as long as they actually did not lose money. He remarked that if the Commission would then want to add some discretion for the Director to grant relief in the interim, there should not be too many licensees who are so far out of compliance that staff would not be able to work something out with them.

Chairman Tull asked if the discussion and action could be postponed until next month. **Ms. Cass-Healy** noted downgrades would continue to occur if the discussion was postponed. **Mr. Bishop** said that the next license period for downgrading would occur in March, so this postponement would actually not affect anyone.

Director Miller said staff is studying this issue and offered that the rule should be left as is or be done away with altogether.

Chairman Tull proposed that this rule change be postponed until next month and a proposal by the WSGC staff be prepared. **Commissioner Heavey** seconded the proposal. *Vote taken to continue this item until next month. Motion carried with three aye votes.*

Chairman Tull encouraged the licensees to contact Director Miller and the staff to work out these issues.

HOUSEKEEPING CHANGES

Amendatory Section WAC 230-02-511 -- Attended amusement game defined

New Section WAC 230-20-510 -- Attended amusement game--Operations restrictions

Amendatory Section WAC 230-20-055 -- Use of proceeds from authorized activities by charitable or nonprofit organizations (~~of proceeds from authorized activities~~).

Amendatory Section WAC 230-40-055 -- Card tournaments for fee and prizes-- (~~Reporting~~) Requirements.

Ms. Tellefson said the following are up for discussion with final action in February. She said staff recommends further discussion.

Chairman Tull called for public comment and said there will be another opportunity for comment at the next meeting and continued opportunity for written comments to be received. No one came forward with comments.

ADMINISTRATIVE ORDER APPEALS

Amendatory Section WAC 230-50-560 -- (~~Adjudicated~~) Adjudicative proceedings--Review of initial order--Replies--Reconsideration--Final orders.

Ms. Tellefson said this change is proposed by staff and the Assistant Attorney General in charge of litigating the Commission's cases. The amendment would change the time to respond to a petition for review from 10 days to 30 days. She stated the APA allows agencies to establish these time lines. She also called the Commission's attention to added language per Commissioner Heavey's request regarding cross appeals, which states that cross appeals must be filed within 10 days of service of a petition for review. She also noted Commission staff deleted language in subsections 5 and 6 regarding when orders become final and reconsideration of final orders and put those subsections into a separate rule that will be before the Commission later.

Chairman Tull called for public comment and comments from the Commission. No one offered comments.

STREAMLINING QUALIFICATION REVIEW PROCEDURES AND REQUIREMENTS

New Section WAC 230-02-162 Functional expenses defined.

Amendatory Section WAC 230-02-278 Program service((s)) expenses defined.

New Section WAC 230-02-279 Supporting service expenses defined.

New Section WAC 230-02-137 Excessive reserves defined.

Amendatory Section WAC 230-04-024 Bona fide charitable or nonprofit organizations--Minimum qualifications--Restrictions--Definitions.

Amendatory Section WAC 230-04-040 Certification procedure--Charitable and nonprofit organizations--Additional information required.

Amendatory Section WAC 230-04-064 Certification procedure--All licenses--Formal commission approval.

Amendatory Section WAC 230-08-095 Minimum standards for monthly and annual accounting records--Charitable or nonprofit organizations.

Amendatory Section WAC 230-08-122 Annual ((certification)) progress and financial report--All nonprofit and charitable organizations.

Amendatory Section WAC 230-08-255 Bona fide charitable or nonprofit organizations--Records required to show significant progress--((Group II and Group III licensees)).

New Section WAC 230-12-076 Regulation of charitable and nonprofit organizations--Assignment to regulatory groups.

Amendatory Section WAC 230-20-064 Maximum receipts, prizes and expenses for bingo games--Net income required.

Ms. Tellefson said this set of 12 rules are up for possible filing. These rules have been discussed with the study groups and they basically streamline the licensee qualification review procedures and clarify some of the qualification requirements. Staff recommends filing of this rules package unless the Commission would like to discuss some of the rules in more depth.

Chairman Tull called for public comment.

Kevin Crum, President, Washington Charitable and Civic Gaming Association (WCCGA), said his group is in favor of these rules, which have been through the study group process. He said the rules take what was a confusing process in the past and do a good job of explaining the terms involved in defining the charitable qualification and re-certification requirements. He said WCCGA supports filing the rules.

Commissioner Phelps moved for filing. **Chairman Tull** seconded the motion. *Vote Taken, motion carried with three aye votes.*

GIFT CERTIFICATES AND TRANSPORTATION TO BINGO GAMES

Amendatory section WAC 230-20-050 Use of proceeds.

New section WAC 230-20-052 Transportation of bingo players.

Amendatory section WAC 230-20-103 Bingo cards to be sold upon the premises--Exceptions.

New Section WAC 230-20-115 Gift certificates--Requirements.

Amendatory section WAC 230-20-230 Free games for winners (~~(prohibited)~~) -- restrictions.

Ms. Tellefson said Item 9 consists of five rules. Two would allow transportation provided by bingo games one time per week from a location outside Washington state, which would be deemed an allowable expense by rule. The other two rules address the sale of gift certificates to players as also an allowable expense. Staff recommends filing. She also noted the rules have been discussed with the study groups.

Commissioner Heavey asked if saving gas money and protecting the environment were considerations when proposing these changes.

Director Miller said that was the other reason the rules were proposed.

Kevin Crum, WCCGA, said these rule modifications were presented by the WCCGA to help charitable operations compete on a better level with increasing competition. He said WCCGA supports filing the rules. He also commented that WCCGA wanted to limit providing transportation to one time per week because providing transportation would be a new activity WCCGA felt that starting at some smaller level might be more appropriate.

Commissioner Heavey moved for filing. **Commissioner Phelps** seconded the motion. *Vote taken, motion carried with three aye votes.*

NUMBER OF CARD PLAYERS ALLOWED AT A CARD TABLE

Amendatory Section WAC 230-40-030 Number of tables and players limited -- Exception for good cause.

Ms. Tellefson said this rule allows 12 players at a card table across the board instead of a variance between 10 and 14, players depending on the license class and the type of game being played. She noted the amendment makes the rule easier for staff to monitor card rooms and easier for licensees to figure out how many players are allowed at a table. Staff recommends filing.

Commissioner Phelps moved for filing. **Commissioner Heavey** seconded the motion. *Vote taken, motion carried with three aye votes.*

FINAL ORDERS

Ms. Tellefson said Item 11 is a new section, WAC 230-50-562. She reminded the Commission she referred to the rule earlier when discussing the Administrative Order Appeals rule. She said the new rule would set forth under a separate rule when an ALJ's orders become final orders and how to

request reconsideration of a final order. Staff recommends filing.

Commissioner Heavey asked whether ~~service~~ was defined somewhere in the rule. **Mr. McCoy** said there is a rule in Chapter 230-50 WAC that defines service. However, the rule defines service of process slightly different than the court rules.

Chairman Tull moved for filing. **Commissioner Phelps** seconded the motion. *Vote taken, motion carried with three aye votes.*

UNFINISHED BUSINESS/OTHER

(Items deferred from Thursday's agenda)

DEFAULT ORDER

JOHN H. BURNS, Case number 95-0514

Chairman Tull said this item was presented yesterday and is up for action today. **Commissioner Tull** moved that the default order be approved. **Commissioner Phelps** second the motion. *Vote taken, motion carried with three aye votes.*

QUALIFICATION REVIEWS

Chairman Tull said these were presented yesterday and all were recommended by staff for approval with conditional certification recommended for Spokane Athletic Round Table.

Commissioner Heavey moved for approval as recommended by staff. **Commissioner Phelps** seconded the motion. *Vote taken, motion carried with three aye votes.*

PETITION FOR RELIEF

UNITED BLIND OF TRI-CITIES

Chairman Tull said he believed that subsequent to yesterday's meeting, Commission staff had discussions with Mr. Cuta, the petitioner, and said that he believed staff will now make a recommendation regarding possible interim action.

Director Miller said staff recommends the Commission grant the petition for relief to let the United Blind of the Tri-Cities (UBTC) go to class "F" on a temporary basis so that staff can verify the information that has been presented, see what the competition is, and see what effect granting relief will have on the games around UBTC. He said staff will then report its findings to the Commission at the March meeting. He also said staff wanted to add a condition that UBTC continue to make a profit and will communicate the Commission's action and conditions to UBTC in a letter from himself or Mr. Bishop.

Mr. Bishop said he discussed the conditions with Mr. Cuta and he agreed to them willingly.

Commissioner Tull moved that the petition be approved subject to the stipulations that Director Miller has just outlined and that Director Miller be authorized to issue a letter as he has just indicated granting

this temporary status for 90 days. **Commissioner Phelps** second the motion. *Vote taken, motion carried with three aye votes.*

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS AND TRIBAL CERTIFICATIONS

Commissioner Heavey moved for approval of the new licenses, changes, withdrawals and tribal certifications as printed in the published agenda. **Chairman Tull** seconded the motion. *Vote taken, motion carried with three aye votes.*

JRROMANO ENTERPRISES, INC., d/b/a YARDARM PUB, CR 95-0223

Chairman Tull said this item was deferred until the next meeting and the appellant has agreed to the stipulation that Commissioner Phelps will be provided the audio tapes of the presentation and colloquy between the Commission members and counsel for the respective parties.

OTHER BUSINESS

LETTER TO COMMISSION

Chairman Tull said he received a letter to the Commission from Senator Michael Heavey and Representative Barbara Lisk. He said those members of the legislature have asked that the Gambling Commission, pursuant to RCW 9.46.090, consider conducting a review of certain elements of the gambling industry and the effects that Indian gaming may be having or may have had on other parts of the industry.

Chairman Tull said a careful list of questions was attached to the letter. He said one category of questions had to do with identifying the various tribes, their casino operations, and those involved with them. He commented that he believed such information could be easily compiled. He said the legislators also asked for a review of the types of games authorized and the amounts of monies involved; discussion of what fees or taxes are being collected by state and local governments; and a somewhat open ended question asking the opinion of the Commission as to its expectations regarding the future of tribal gaming in terms of its size, increases, and decreases over the next five years.

He said the legislators also had some questions about the differences between tribal and non-tribal gaming operations in terms of scope and numbers and so forth. A question is also asked regarding the competitive disadvantages that exist or may be perceived to exist in light of tribal gaming and where there may be an advantage. The legislators also want to know whether there are statutory and/or administrative changes that could equalize or reduce the differences between tribal and non-tribal operations in gambling. And finally, he said the legislators asked that if there was additional flexibility in non-tribal gaming, could the Gambling Commission continue to regulate the gaming industry so as to assure that it continues to operate with integrity and free of organized crime and if so, what additional resources would the Commission need.

Chairman Tull said he believes it is up to the Commission to determine whether or not it wishes at this time to try to reply to these requests. He noted it is his view that most of the information can be prepared without undue burden on staff. He said the reason he raises the legislative request at all is that it seems the legislators would like a response before the end of this session; therefore, there is a

time pressure about which to be concerned. He said he thinks, if it is the wish of the rest of the Commission, it would be appropriate to have staff assemble this information.

Chairman Tull said he also thinks the Commission should be sensitive to whether there is time for the Commission itself to either add, subtract, or modify the language on the more opinion oriented items of the legislators' questions. He said he is keenly aware that the Commission has the right, and to some extent the capability, in answering the questions at the commission member level. He said he is aware given the time realities that the Commission members will be relying at least on a significant part of the staff to bring this forward. He said he was not sure whether the Commission would be able to deal with the request at its next meeting in February and still get it to members of legislature in a timely fashion. He then asked Commissioners for comments or further questions on the topic.

Commissioner Phelps said a response should be made as soon as possible so the legislature may consider the issues prior to his confirmation hearing. He noted Commissioner Heavey was confirmed by the Senate on Wednesday, January 10, 1996. **Commissioner Heavey** commented that at his confirmation hearing last year he hurried to arrive at 8:00 a.m. and there was only one person present.

Chairman Tull asked staff to prepare a response to all items requested and then circulate the response to each commissioner for review and comment. **Commissioner Phelps** stressed that the response should be provided to the Legislature before the next Commission meeting. **Commissioner Heavey** said he doesn't have any problems with items 1-9, but he does object to the item that requests response before the session begins. He also said that the letter from the legislators should have been a little more specific about who was to respond. **Director Miller** said that Barb Lisk is now the Republican party caucus chair ASK FRANK/SUSAN. **Commissioner Heavey** said there is obviously a lot of interest in the issue and a thoughtful and thorough response should be prepared carefully and with the time needed. He suggested a preliminary letter could be sent stating that a thorough response to these issues will take more time.

COMMENTS OF PUBLIC OR PUBLIC OFFICIALS

Lynn Melby, Executive Director, Washington State Federation of Clubs, said that he and Stu Hoffman will be lobbying for support of their bill, the fund raising event bill and he urged a speedy reply, which may help move the bill along. He also said there is talk of a bill that would authorize non-tribal operations to have slot machines pending the outcome of certain court decisions.

Chairman Tull noted the 1996 Commission meeting schedule has been published and he adjourned the meeting.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green
Executive Assistant